

TWO SPEECHES

IN THE

HOUSE OF COMMONS

ON

THE ORIGINAL EAST-INDIA BILL

AND ON

THE AMENDED BILL,

ON

THE 16th AND 26th OF JULY, 1784,

BY

PHILIP FRANCIS, ESQ.

L O N D O N

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BY

THOMAS W. ANGLIS, Esq.

OF

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1840.

HOUSE OF COMMONS.

FRIDAY, JULY 16, 1784.

“THE order of the day being read, for the
“House to resolve itself into a Committee of
“the whole House, upon the Bill for the better
“regulation and management of the affairs of the
“East-India Company, and of the British pos-
“sessions in India, and for establishing a Court of
“Judicature for the more speedy and effectual
“trial of persons accused of offences committed
“in the East Indies; the Speaker put the question,
“*That he should now leave the chair?*”

Mr. FRANCIS.

Mr. SPEAKER,

I am sorry that I must be obliged to oppose
your leaving the chair. My opinion of the bill
will not allow me to consent to its going to a
Committee; for I not only think it materially de-

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fective in the detail, but liable to fundamental and essential objections. Particular provisions might be added, improved, or omitted; but objections, that go to the foundation and essence of the bill, are not to be removed by any alterations, that would not make it completely a new one. I have attentively considered the subject; and I mean, if the House will permit me, to submit to you my opinion of it, more at large than I should venture to do any other. I mean to examine the principles as well as the provisions of the bill; — a task, I fear, not to be performed without a long and a tedious discussion. To *me* the task is particularly heavy, but I am bound to undertake it by many obligations. The labour we are engaged in does not offer *me* the same hopes, which it may have suggested to others: I am not encouraged to engage in it by a sanguine expectation of success. I very much fear, that the object of our present deliberation is dead. You have neglected it too long. You have suffered it to fall into a state of ruin from which, I fear, no remedy within the reach of human wisdom can recover it. But a great authority, under which I had the honour and good fortune to be bred, has taught me, *that duty may survive hope*. — On this principle alone, I am still ready to take my share in the duty, though I cannot partake in any hope of its success.

The views and principles of the bill may naturally and properly be divided into three distinct general heads. — First, the new arrangement and distribution

tribution of power at home, with all its probable effects and influence on our domestic government.— On this part of the subject I shall confine myself strictly to the fact, which I think will be easily established, that there is a compleat and absolute transfer of the whole power and patronage of the East-India Company into the hands of the Crown. Of the effects of this transfer of power, of its probable influence on our own Government, and of the danger with which it may threaten the Constitution of England, I do not mean to offer an opinion. If those topics have not already been sufficiently discussed, they properly belong to the department, and should be reserved for the employment of the greatest abilities in this country. A right honourable gentleman near me will do justice to the subject.

The second division of the bill includes the arrangements and regulations intended for the Governments abroad; and on this I shall hope to be permitted to enlarge. Without pretending to superior qualifications, or presuming to dictate to the wisdom of the House, I am persuaded you will listen to information, which only professes to be derived from experience.

The third division regards the new plan of criminal judicature proposed to be introduced into England, for trying offences committed in India. On this last point my opinion will not be delivered in many words, but the words that I make use of shall be the strongest I can find.

Sir, There are two preliminary observations, which arise on a general view of the bill, and which I wish the House to carry along with them, through the discussion of all the parts of it. First, that the whole bill on the face of it is remedial; that it is a remedy of a new and violent nature, necessary perhaps, but necessary only on the supposition of some great and inveterate disorders, both at home and abroad, which, though constantly implied, are no where stated.

Secondly, Sir, admitting such disorders to exist, I think it will appear, through the whole plan of the bill, that the remedy applied is in every instance directly the reverse of what the disorder requires. With respect to the Governments abroad, the acknowledged grievance is, that the powers, hitherto intrusted, have been grossly and notoriously abused. But you will find that, in the contemplation of this bill, the true and natural remedy for an abuse of power is to increase it. With respect to the Company's Government at home, the constant complaint of the Directors has been, that their power over their servants was too feeble to enforce obedience, that their authority was disregarded, and their orders avowedly and constantly disobeyed. You have facts in abundance, reported to you by your Committees, to satisfy the House that these complaints of the Directors are perfectly well founded. Now, Sir, in the contemplation of this bill, the remedy for disobedience of orders is to strengthen the power that disobeys; and when insulted authority calls for support,

support, either, in effect to reduce it to nothing, or, what is still worse, to suffer it to exist and to make it contemptible. The pretended power, left in the hands of the Directors, is a mockery of the degraded state of those unfortunate gentlemen. It is worse than useless; for since, in fact, they are only to be the channel of the operations of a superior power, you diminish even that power, which unquestionably the bill proposes to establish, and expose it to share in the contempt attached to the medium, through which it is to act. In these observations I mean only to state the general result and impression of the bill, without immediately referring to the specific evidence, from which they are deduced. The shortest and clearest way to establish the truth of them is to enter at once into the detail of the bill, and to follow it as it goes.

Sir, the very outset of the bill is essentially defective. When an act of legislative power is applied to the total alteration of an existing Government, it must of necessity be supposed that such Government is either radically corrupt, or unfaithfully administered. No man, I presume, will dispute that such is the fact in the general government of the East-India Company's affairs. The present bill, through every part of it, supposes what it no where avows, that nothing less than a vigorous interposition of the Legislature can save the object. For aught that appears in the preamble of this act, where the general grounds of it should naturally be set forth, the territorial possessions, for whose *better* govern-
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ment we are going to provide, may be perfectly well governed at present. For want of this essential preliminary, the whole body of the bill is in effect a conclusion without premises, a remedy without a disease, a penalty without a crime. The omission of such a preamble to such a bill as this will appear extraordinary as well as improper, to those who recollect with how much force and energy the Chancellor of the Exchequer, in opening the plan and principles of the bill, insisted on the magnitude of those crimes and abuses, which demanded and justified a proportionate effort of power to punish or correct them. He was not very reserved in his description of the offenders, or of their offences, but painted them both in the blackest colours. It is much to be regretted, that the substance, at least, of his opinion of Indian delinquency should be nowhere recorded for the benefit of his friends.

The new Board of Commissioners for the affairs of India is to consist of certain Members of His Majesty's Privy Council, and they are to be invested with the superintendence and control over all the British territorial possessions in the East Indies, *and over the affairs of the United Company of Merchants trading thereto.* The powers, conveyed by the latter part of this clause, evidently and expressly include the Company's commerce. The affairs of a Company of Merchants trading to India can only be commercial. Let the Court of Directors look to it. I am perfectly aware, that in a subsequent clause it is provided, that if the Commissioners send any orders

ders to the Court of Directors, which, in their opinion, shall relate to points not connected with the territorial government or revenues, they may apply to the King in Council for redress; that is, if they are dissatisfied with the judgement of His Majesty's Ministers at one Board, they may appeal to His Majesty's Ministers at another. The power given is unlimited. The appeal against the exercise of it is nugatory.

The Court of Directors are to be governed and bound by the orders they receive from the Commissioners; and are not to send dispatches of any kind to India, without their previous approbation.

The Commissioners may send their own orders originally to the Directors, who are obliged to insert such orders in their dispatches, pursuant to the *tenor* thereof; that is, in the same words.

If the Commissioners should be of opinion that the case requires secrecy, they may send their own orders directly to the Governments in India, without any communication with the Court of Directors, who are not to be trusted even with the knowledge of measures, in which the most essential interests, the safety, and, perhaps, the existence of the India Company may be involved. In the same clause, the Commissioners may not only send their orders to the Governments abroad without the knowledge of the Directors, but, what is much more extraordinary, and much more alarming, they may send secret instructions to the Commanders in Chief in India, independent of the Civil Government on the spot.

spot. If there be no mistake in the construction of this clause ; if it be seriously intended to give this power to the Ministers of the Crown, there is no clause in the bill that more urgently demands the attention of the House. By another clause, the nomination and appointment of all the Commanders in Chief in India, and of persons to succeed to the command in case of vacancy, are directly vested in the Crown ; and these officers are required to obey whatever orders they receive from the King's Ministers, not only independent of the Directors at home, but of the Civil Government of the Presidency to which they belong. I state the facts as I find them, and shall leave them without comment to the judgement of the House.

The general patronage of the Company is professedly left with the Court of Directors, but with exceptions and restrictions which really reduce it to nothing. The Commanders in Chief and their immediate successors, at all the Presidencies, are to be under the immediate appointment of the Crown. By this provision the military is separated from the civil power of the Company's government. The Court of Directors, who pay the army, and whose general authority over it is apparently continued, can neither appoint, nor remove the persons who command it.

With respect to the offices of Governor General, Presidents, and Members of the several Councils in India, the Directors, it is true, may nominate and appoint : but it deserves to be considered, that they
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who appoint are not permitted to remove; that power is exclusively vested in the Crown; and even the pretended power of appointing to these offices is ineffectual. Their nomination is to be subject to his Majesty's approbation. If the King disapproves, the Directors must proceed to another nomination; and so on, *toties quoties*, until persons shall be appointed *who shall be approved by His Majesty*. This is the way, in which the patronage of all the principal offices in India is disposed of. All other promotions, civil and military, are to be made according to seniority of appointment in a regular progressive succession; and the Directors are prohibited from sending out any new servants, civil or military, until certain establishments shall be completed, and then, only to fill up the vacancies that may happen therein. I do not mean to blame these last regulations: but, if all the preceding exceptions and limitations are combined, it is evident, that no real patronage will be left with the Directors, or, at the utmost, a patronage to operate upon trifles. Not so the powers given to the Commissioners. In every department of the Company's affairs, *their* direct authority, or their indirect influence, is real and effective. On the real principles of this bill, whether acknowledged or not, the Court of Directors ought to be abolished. To leave a shadow of power after the substance of it is gone, is to establish a contradiction, which can only do mischief. Whenever the constitution of any government is essentially altered, the forms should not be allowed to survive

the essence. Under the shelter of these forms, things will be done, or duties will be neglected, for which no man will be responsible. No despotism was ever so severe as that, which existed in the form of a republic. In whatever degree the powers reserved to the Directors are effective, they can only be productive of mischievous effects. They can only clash with, and retard the operations of the superior Board, and furnish them both with pretences for accusing each other of whatever may happen amiss.

Now, Sir, I submit it to the House, to determine whether my first proposition be not sufficiently established, that in every sense in which power can be suspicious, in which power can be mischievous to the thing subject to it, or dangerous to objects not immediately connected with it, there is by this bill a complete and absolute transfer of power from the India Company to the Crown. I consider it only as it affects the Government of India, and shall pursue the remaining clauses in the order in which they stand.

I have already taken the liberty of observing to the Chancellor of the Exchequer, that the bill makes no provision for the situation of a Commander in Chief of all the Company's forces in India. The office exists, though it be not actually filled up, and it ought to be provided for. That officer has always had a seat in the Supreme Council; of course, there must be a mistake in the seventeenth clause, which gives voice and precedence in Council

to the Commander in Chief of the Presidency of Fort William, as if he had a seat there, which, in fact, he never had. The mistake must be corrected.

From the terms of the nineteenth clause, I conclude that Lord Macartney is to be removed from the Government of Fort St. George; that is, that he is to be sacrificed to the views and resentments of the Government of Bengal. I have not the honour of knowing Lord Macartney, nor have I a connection with him of any kind: but, in order to be convinced that the noble Lord has done his duty, it is sufficient for me to know who the persons are, and what the combination is, that are united against him. By a different course of conduct, *their* enmity is not to be incurred. The moment I knew the fact, I drew the conclusion — I foresaw the consequence, and foretold it to his friends: *This man is doing his duty, and assuredly he'll be recalled for it.* Comparing this clause with another that relates to Fort William, the House will observe, that in Bengal, which is the seat of power, and where, if mischief has been done in India, the source of it must exist, there is to be no change of hands; but, in the subordinate settlements, there is to be an universal sweep.

The wisdom and necessity of the thirtieth clause, by which the General Court of Proprietors are restrained from interfering with *any act, order, resolution, matter, or proceeding of the Court of Directors*, will, in this House at least, be generally acknow-

ledged. All parties, I believe, are agreed on the necessity of putting an end to the cabals of that assembly. Every bill, from every quarter, that has hitherto been proposed for the better regulation of the Company's affairs, makes special provision for this favourite object. I therefore give the clause my entire and hearty approbation. At the same time, Sir, I cannot help observing, that the principle and object of this provision is not to be reconciled to the language, or rather to the cry, by which a bill that passed the House of Commons last year was run down, and the honourable person who moved it, for a moment dispossessed of his popularity, and driven from his station. If the rights conveyed by an exclusive charter be in their nature *sacred*, they can no more be invaded in part, than they can be wholly resumed. If the charter itself be *sacred*, it ought to be *inviolable*; or, if any part of it be more essentially *sacred* than the rest, it must be that, which secures to the Proprietors the control and direction of their own affairs. In this respect, the present bill adopts the very same principle, by which a much better was defeated. It assumes a discretion, where, on the professed principles of those who defend it, there should be none. It takes or leaves just as much of the Company's charter, as suits the purposes of the present Administration.

The object of the thirty-second clause is proper. The subordinate Presidencies should either be dependent on the superintendence and control of the
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Governor General and Council in *all* cases, or totally exempt from it. We know by experience, that an attempt to subject them to a *partial* control is not likely to succeed. We know that it has hitherto produced no good effect. On the other hand, it is evidently absurd and hazardous, that the members of one state, and the parts of one system, should not be united under one power, whenever they are to act, and not move together under a single direction. There is no alternative, therefore, but to establish a general authority at Fort William, and to insist on a general submission to it : but, at the same time, let care be taken to unite the powers, and strengthen the authority at home in the same proportion.

The thirty-third clause is so very incorrect and obscure, that, I confess, I should be glad to see it translated into common sense. It is said, that the rules, ordinances, and regulations, which the Governor General and Council are empowered to issue, shall extend to all rules, ordinances, and regulations made by the said Governor General and Council. If this be not positively nonsense, it is, at least, an extraordinary way of removing all former *questions and doubts* upon the subject. Whoever drew up the clause evidently knew nothing of the matter. So far from explaining the questions, or removing the doubts to which he alludes, he does not even know what they were, nor what they referred to. The only question that ever arose in Bengal, concerning the power granted by the act of 1773 to the Governor

Governor General and Council, to make rules and ordinances for the settlement of Fort William, was, to what *things*, to what *subject matter*, and not to what persons or places, the power extended; and this, indeed, is a doubt which it would be proper to clear up. If it be intended to give a general legislative power, the terms you make use of must be much more comprehensive and much more explicit.

The thirty-seventh clause declares, that *to pursue schemes of conquest, and extension of dominion in India, are measures repugnant to the wish, the honour, and policy of this nation*. Sir, I wish to see a proposition so full of truth and wisdom, not only acknowledged, but enforced. In this most essential view, the plan of the bill is most essentially defective. It alludes to facts and offences which are not stated, and to criminals whom, so far from attempting to punish, it does not even venture to describe. If such facts and criminals do not exist, the whole bill is a superfluity built upon a falsehood. It supposes imaginary disorders, for the imaginary merit of correcting them. But if they really exist, it is in vain to expect that they will be checked or prevented by the empty threats of a Legislature, that contents itself with piling up laws upon laws, and regulations on regulations — of a Legislature, that never has hitherto been obeyed, yet always looks forward to future obedience. Reward and punishment are the right and left hand of Government. It is the office of the head to frame and denounce the law, but it is the hand that must enforce it. In another point
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of view, the bill is unjust as well as impotent. It makes no distinction between those persons, who have uniformly acted on the principles you approve, and others, who have uniformly acted on the principles you condemn. In not stating *any* to be innocent, it supposes *all* to be guilty. Now, Sir, I shall do what the mover of the bill has not had courage to do. I attach responsibility to power, and I affirm, that, at the end of the year 1777, the whole political power of the British empire in India, nominally vested in the Governor General and Council, was really and substantially vested in Mr. Hastings. If Mr. Hastings, supported by one Member of the Supreme Council against the other two, be not exclusively responsible for the war which was undertaken at that period, for the *avowed* purpose of conquest and extension of dominion, which carried desolation with it wherever it extended, and which has ended in the ruin of the East-India Company, it is fit that Parliament and the nation should know, nay, it is the duty of Parliament to inquire, who was the author of the war, and who is to be answerable for it. Facts, it will be said, may be very differently represented, and variously accounted for, especially at so great a distance as from India to England. Sir, I well know the facility, with which facts at such a distance may be stated to advantage. But principles formally declared, and deliberately avowed, are not to be disguised or retracted. They stand for public judgment, and they demand it. If the House have any doubt about the fact, let them look to the acknowledged

ledged principles of the person, to whom the fact is imputed. Does Mr. Hastings himself deny, that conquest and extent of dominion were his object in the pursuit of the Maratta war? No, Sir; he avows it. Let him answer for himself. I will not run the risque of doing him an injustice.

“ If the British arms and influence have suffered
 “ a severe check in the Western world, it is the
 “ more incumbent on those who are charged with
 “ the interests of Great Britain in the East, to exert
 “ themselves for the retrieval of the national loss;
 “ that we have the means in our power; and that,
 “ with such superior advantages as we possess over
 “ every power which can oppose us, *we should not*
 “ *act merely on the defensive* *.”

In these explicit words you have all the policy and all the justice of the Maratta war: *If we have suffered losses in the West, let us repair them in the East; wherever we are powerful, it is our business to attack.* Surely, Sir, if no other evidence existed, it would not be very unreasonable to presume, that Mr. Hastings's measures have been formed on the principles he professes.

I am ready to admit that the clause in question does all that can be done, by mere legislative prohibition, to put a stop to such measures in future. Yet I very much fear that the general rule will be defeated by the exception that attends it. The Governor General and Council are not to make war, or to commence hostilities against any of the coun-

* Consultation of 22d June, 1778.

try powers, *unless such powers shall be actually making preparations for the commencement of hostilities against us or our allies.* I beg leave to assure the House, that whenever the Governor General and Council are disposed to make war upon their neighbours, they can at all times fabricate a case to suit their purpose, and send home a mass of incontrovertible evidence to support it. — The exception in the next clause, by which a similar latitude is given to Fort St. George and Bombay, is not so dangerous, because those Presidencies are nearer to a power that may control them. They cannot make war, if the Governor General and Council be seriously determined against it. But again I tell you, that one example is worth a hundred laws.

I am not very conversant with the affairs of the coast of Coromandel, and therefore shall offer but a single observation on the several clauses that relate to the liquidation of the debts due to British subjects from the Nabob of Arcot, the Rajah of Tanjore, and any other of the native protected princes in India. The labour of inquiring into and liquidating these debts, which the bill imposes on the Governor General and Council, in addition to their own immediate duties, will be very heavy, and, I believe, equally useless. They may adjust the account; but I have no conception how the debts are to be paid out of an exhausted revenue, and a ruined country. I believe it to be impossible, unless a preference is to be given to the private debts before
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those of the Company, which, I presume, is not intended.

The final settlement of the present indeterminate rights and possessions of the Nabob of Arcot and the Rajah of Tanjore, with respect to each other, is a just, a necessary, and an attainable object. The principles, on which the settlement is to be made, appear to me to be the best that could be adopted. But I most strongly object to, and protest against the idea of leaving the execution of the measure to the Governor General and Council. The power, which predominates in that Government, is notoriously partial to the Nabob of Arcot, and hostile to the Rajah of Tanjore. The tribunal, to which you refer the parties, is prejudiced in favour of the stronger of the two, and, if its intentions were ever so upright, should not be trusted with the power of judging between them. Neither is it necessary. There is no question of right between the contending parties, which may not be decided as properly and as effectually in England as it can be in Bengal. The Court of Directors have all the materials before them: they may determine the points in dispute, and send their orders directly to the President and Council of Fort St. George, to carry their decision into effect. If they *can* do it, they *ought* to do it.

On a similar principle of reason and justice, I object to the mode adopted in the next clause, for the professed purpose of reinstating certain Rajahs, Zemindars, Polygars, and other landholders, who have

have been dispossessed of their lands. The claims of the parties are to be referred to the respective Presidencies, who are to *inquire into, and determine upon them*: that is, if injustice has been done, the persons, who have done it, are to repair it at their discretion. Is there any colour of propriety, is there any prudence in such a delegation of power? or do you think it would be effectual? For example, do you believe that any orders from the Court of Directors, or even from the highest power in this country, could engage Mr. Hastings to listen to the claims of the Rajah of Benares? Can he be reasonably deemed an impartial judge of such claims? He has told the Directors*, that “ if they should proceed to order the restoration of Rajah Cheyt Sing, and, if the Council should resolve to execute the order, he would instantly give up his station and the service.” He supposes it will be a question in the Council, whether the order of the Directors shall be executed or not; and he fairly apprises them of his own resolution to oppose it. For my own part, I am persuaded that he would hazard his life rather than submit to carry the order into execution himself. Yet, if ever there was a case that called upon the national honour and humanity for justice and protection, assuredly it is that of the Rajah of Benares.

The next clause is material indeed. The well-being, if not the existence of the natives of all

* 20th March, 1783.

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your Eastern Dominions, depends on a firm establishment of that principle of taxation, which appears to be the object of the clause. Ever since I have known any thing of the subject, or had an opportunity of offering an opinion about it, it has been the labour and effort of my life to inculcate and establish the truth of this proposition — *that the tribute, rent, service, or payment to be paid by the several landholders, of whatever denomination, should be fixed and unalterable.* The professed object of this clause is the real object, and result of every conclusion, that my understanding is capable of deducing from experience and reflection. The means, taken to accomplish it, are the very worst that could be thought of. After twenty years possession of the Dewanny, after twenty years collection of the revenues, the fixation of the rents is still to be a question for future investigation. — Good God! Sir, are these inquisitions into the property of our Indian subjects — are these scrutinies into the value of their estates *never* to have an end! Are the natives of India *never* to have a quietus under an English Government! — In the year 1784 you order the Governments abroad to *devise such methods as shall to them seem most fitting and convenient to establish a fixed and unalterable tribute!* The language held by the Directors, seven years ago, on a similar occasion, is wiser and more humane than yours, and ought to be a lesson to you. In July, 1777, speaking of a new mode of inquisition proposed and established by Mr. Hastings, they said, “ In the present state of the business, our sur-
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“prise and concern were great on finding, by our
 “Governor General’s minute of the first of No-
 “vember, 1776, that, after more than seven years
 “investigation, information is still so incomplete,
 “as to render another innovation, still more extra-
 “ordinary than any of the former, absolutely ne-
 “cessary to the formation of a new settlement.”

But the present course, it seems, is taken, *in order to prevent any corrupt or oppressive practices.* — Sir, the Court of Directors are in possession of annual accounts of the revenues of Bengal since the year 1766. They have an account before them of the demand, receipt, and balance of every respective year. In short, Sir, they possess every possible light and information on the subject, which the Government of Bengal ought to look for, or would be able to obtain. They may take the collections of any one year for a standard, or, what is much better, they may take an average of the collections of several years, and determine at once, and for ever, what all the principal districts shall invariably pay. Perhaps it may be necessary, though I do not think it will, to leave some parts of the minuter distribution to the power upon the spot. The less you leave to it the better. The only danger of the mode I propose, or of any mode of fixation that can be proposed, is this — that, take what period or what average you will, considering the daily and rapid decline of the country, the amount of revenue, so taken, will prove too much. The state of the country, and of the people, calls as loudly for
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abatement, as the necessities of the Company call for increase of revenue.

This, Sir, is the true way to *prevent corrupt or oppressive practices*. If you refer it to the servants abroad to *devise the methods*, and then to transmit their proceedings and determination to the Court of Directors for *their* final orders and directions :— in the first place, the delay of itself is a new, or, rather, a continued act of oppression to the natives ; but what is much worse, your measures are opposed to your experience ;—you unnecessarily give powers, which you know, or ought to know, have been constantly abused. One example, if there were no other, ought to deter you from replacing a similar trust in similar hands. I have a right to assert, though not from my own knowledge, that the five-years settlement of the revenues of Bengal, made in the year 1772, *was sold* by the Committee of Circuit. The fact is notorious in India ; but it is on the authority of the Court of Directors that I affirm it to be true. In their letter of the 4th of March, 1778, they ordered the Governor General and Council *forthwith to commence a prosecution in the Supreme Court of Judicature against the persons who composed the Committee of Circuit, or their representatives**.

I do not doubt that the subsequent clause, for securing the pensions allotted to some of the Zemin-

* This letter is signed by the present Chairman and Deputy Chairman of the Court of Directors, *Mr. Smith and Mr. Devaynes*.

dars in lieu of their lands, was drawn up with a benevolent intention; but I believe the fact it refers to is misunderstood. The first and leading effort of national justice should be to reinstate the proprietors, of every denomination, in the possession of their property. The very measure, that forced these pensions on the Zemindars, was an act of the most despotic oppression. The rents demanded of them, for this very purpose, were so high, that, rather than be answerable for sums which they knew their lands could not afford, they accepted of pensions, and surrendered the possession and management of their estates to strangers, to farmers, to adventurers, to the banyans of the President and Council of Fort William. Is it otherwise to be believed, that any man in his senses would give up his landed estate for a pension, to be held at the pleasure of an arbitrary Government? — Do justice to these people, and there will be no foundation for this clause.

It is proper and necessary that the Court of Directors should be restrained from sending any new servant, civil or military, to India, until the establishments are fixed; and, when they are fixed, it is equally proper that the Directors should be restrained from sending out writers, cadets, or others, beyond the number necessary to fill up vacancies as they happen. The service is overloaded with useless servants: they are a burthen to the Government, and they constitute a tax of the worst sort upon the country.

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There seems to be no occasion for a law to confirm an existing rule of the Company's service. It is, and always has been, established, that promotions should be made according to seniority. The latitude given in the exception is perfectly unnecessary, as well as incorrectly worded*. The Governments abroad are ready enough to find *urgent occasion to deviate from the general rule*. The vote in Council is the very act of deviation, not the medium through which they see cause for it.

The next clause may properly be combined with another, which stands at a distance from it; I mean to consider the sixty-seventh and eighty-ninth clauses together. By the former no person, beyond a certain age, is to be sent to India as a cadet or writer; but no reason for the limitation is assigned. By the latter, no person whatsoever, who shall have been employed, *in any capacity whatsoever*, in the East Indies, shall be capable of being appointed to any station or office in India, after he, having returned to this kingdom, shall have resided at home a certain time, unless it be proved that such residence was necessary for his health: so that the worst man in the service is capable of being reinstated, provided he resigned it on account of his health; whereas an able and meritorious servant, who may have been obliged to come to England, and to reside here longer than the limited period, for the most urgent

* The terms of the exception are, "unless any of the said Governments and Presidencies shall, on any very urgent occasion, by a vote in Council, see cause to deviate from the said general rule."

and justifiable reasons, though not for ill health, is utterly prohibited from returning to a service, to which he may have devoted his life, and for which he may have relinquished all other prospects and pursuits. I see no reason for the distinction. There is no positive merit in sickness, though it has a natural claim to indulgence. One would think that the executive power of the Company, if the Court of Directors are equal to any of their duties, might safely be trusted with such details as these. It is not an object that apparently requires the interposition of the Legislature: but if it did, the proper and useful regulation would be, not absolutely to prohibit absentees from returning to the service, but to prevent their gaining rank in their absence over those, who continued to do their duty on the spot. Whoever stayed in England, beyond the limit of a reasonable leave of absence, should return precisely to the rank he held when he left India.

Taking the operation of the two clauses together, the result seems to be, that, in the first instance, no man, who shall have acquired knowledge or experience in England, shall be permitted to go India; and that no man, who may have acquired knowledge and experience in India, shall be permitted to return, unless his faculties have been sufficiently impaired by his infirmities, to qualify him for resuming the duties of his station. The favourite idea seems to be, that youth and inexperience should govern Bengal. An old maxim of policy attaches

experience to years, and wisdom to experience; and though I know there is a brilliant exception to this maxim, I wish it to be left where it stands—a brilliant exception to a general principle, and not, that the exception should be converted into a rule.

Nothing can be objected to the principle and purpose of that clause, which makes all offences committed by British subjects in every other part of India, *or under pretence of the order of any native protected Prince*, amenable to the same laws, and liable to the same penalties, *as if they had been committed within the territories directly subject to the British Government*. At the same time, there will be a legal difficulty in the proceeding, which gentlemen of the profession would do well to consider. The process of our courts of justice does not run beyond the limits of our own provinces; so that, although the party accused may be in your power, the witnesses necessary to convict or acquit him cannot, in any regular course of proceeding, be compelled to appear. If this difficulty be not provided for, there can be no trial of the offences in question.

On the subject of presents, my opinion, perhaps, may be thought particular. Forms and appearances, I know, are against it. Undoubtedly the Governor General and Council, the Judges, and any others who have great established salaries, should derive no other advantage from their station. With respect to *them*, the prohibition of presents is proper; but it ought to be complete. I can assure the House, that the exception in favour of presents of ceremony

mony on *solemn occasions*, is founded on ideas which I know to be fallacious. The acceptance of ceremonial presents is no way necessary for supporting the dignity of men in power, nor has the refusal of them ever given offence. General Clavering, Colonel Monson, and I, constantly refused them. We told the natives, it was against the law of England, the very law by which we were appointed, and they were satisfied. Mr. Hastings declared, that he should continue to receive *nuzzers*, and carry them to the Company's account. Our other honourable colleague, who is now a Member of the House, *entirely approved of the honourable President's conduct in the receipt of complimentary nuzzers* : but he did not equally approve of accounting for them to the Company. His words are ; “ I might here make a tender to the Public of the trivial *nuzzers*, to the acceptance of which my station has impelled me. But what is proper for the Governor General, would in *me*, I apprehend, appear rather in the light of a consequential, insignificant display of rigidity in excess !” In Mr. Hastings's letters you have seen some splendid examples of the sublime. The honourable gentleman, whose words I have just repeated, succeeds better in the profound. It is his forte. These trivial presents accumulate very fast. If I had laid myself out for the receipt of them, I have no doubt, that while I was in Bengal I might have realised eight or nine thousand pounds from this petty source of profit. To men in high station, the prohibition should be absolute.

In all stations, it should be highly penal to receive money for corrupt purposes, or to extort it. In the ordinary transaction of business, I am inclined to think that presents are not dangerous, and I know that they are useful. The Government of Bengal, through all its gradations, is a Government of favour, not of justice. Nothing would ever be done for the natives, if they did not gratify the persons who forwarded their affairs. Whenever there shall be a Government of strict justice in Bengal, and whenever provision shall be made for the various offices under it, proportioned to their respective rank and power, you may totally abolish presents. Till then, you neither can, nor ought to do it — till then, the oaths you prescribe to the collectors of the revenue will bind none but men of honour. Men of a different character will either totally disregard the prohibition, or satisfy their scruples, if they have any, by accommodating the exception to all cases, or all cases to the exception. For the purpose of receiving *presents of ceremony*, all occasions will be found sufficiently *solemn*.

By the sixty-ninth clause, the whole gift or present is to be forfeited to the King: by the seventieth, the court of justice may order the gift to be restored to the party who gave it. Can the same present, supposing it were a diamond, be forfeited to the Crown and restored to the owner; or is it meant that the offender shall forfeit double the value in every instance? — The two clauses seem to me to contradict one another.

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The seventy-first makes an exception in favour of counsellors at law, physicians, surgeons, or chaplains; but it takes no notice of attornies, who are much more in the receipt of fees than any of the others.

With respect to *the wilful disobeying, or the wilfully omitting to execute the Company's orders*, if there be no material instances of the disobedience alluded to, the law that proposes to punish it hereafter is superfluous and unjust. The Legislature interposes before it is called upon: — it supposes offences, which are not stated, and, by supposing them to exist generally, it confounds the innocent with the guilty. If they *do* exist, to a degree, that warrants and demands the interposition of the Legislature, they ought to be punished as well as forbidden; at least the offenders ought to be removed from their places. When the laws prohibit on one side, and perfect impunity encourages on the other, is it reasonable to expect that the prohibition should be regarded? — The minds of men will be determined by what you *do*, not by what you *say*; and the more you threaten, the more you will be despised.

The two next clauses give a most exorbitant and formidable power to the Governor General and Council, and to the subordinate Presidencies; even to *Bencoolen*! — *All persons suspected of carrying on any illicit commerce or correspondence with any body*, may be seized, imprisoned, and detained in custody by the Governor's warrant, until the Governor and Council shall think fit to bring them to trial, or send them

them to England. No fact is stated, or even alluded to, that might require the delegation of so dangerous a trust. I declare, that while I was in India, there never was an instance fit to be named as the foundation of such a law as this; nor have I heard of any since. Correspondence with the enemies of the State is high treason; and treason may be punished without a new law. But what do you mean by *illicit commerce*? What transaction is there in life which an arbitrary Government may not interpret into an *illicit commerce*? Do you mean to deny the parties the benefit of the *Habeas Corpus*? Do you mean to leave it to the discretion of the Governor and Council at what time the party shall be tried, or to *their* option whether he shall be tried on the spot, or sent a prisoner to England? No, Sir; I know perfectly well what is meant. The liberty of every individual in India is to be held at the mercy of the Governor General. The clause has no real object, but to increase his personal power, and to make it irresistible.

I have now gone through the second division of the bill. Before I proceed to the third, I have an appeal to make to the honour and to the justice of the House. It is of a nature so personal, that it will probably excite their curiosity; but it is also connected with the public service. It has a natural and a necessary relation to the general object of the present bill, and therefore deserves their attention. It concerns the service of the public in future, that the character of men, who have faithfully

fully and honourably discharged the duties of a high station, should be protected from reproach. The insults, offered to the memory of such men, contribute to deter others from following their example, are injurious to the community, and ought to be resented with universal indignation. It is not of myself I speak;—that spirit of presumption does not belong to me. I am proud of the fortune, that connected my name and united my labours with those of Clavering and Monson, and it is all the distinction I pretend to.

When I sought to obtain a seat in the House of Commons, it was not merely for the honour of sitting here, nor for any delight I take in your debates. With respect to India affairs, my first view was, not to serve England or the India Company; but the natives of India if I could. To them I am bound by every obligation of justice, gratitude, and compassion. From *them* I received the salary, which gave me a fortune. But, even if the service of England had been my only object, this is the course I should have taken to pursue it. I will not appeal to your virtues, or suppose that you have any. If you have common sense, if, as interested men, you understand your own interest, you will treat the creatures, subject to your power, with lenity and justice. If wealth be your object, you will protect the industry, you will nurse and cherish the estate, by which you expect to be enriched.

My second reason for obtaining a seat in Parliament was to have an opportunity of explaining my
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own conduct, if it should be questioned, or defending it, if it should be attacked. The last, and not the least urgent reason was, that I might be ready to defend the character of my colleagues, not against specific charges, which I am sure will never be produced ; but against the language of calumny, which endeavours to asperse, without daring to accuse. It is well known that a gross and public insult has been offered to the memory of General Clavering and Colonel Monson, by a person of high rank in this country. I was happy when I heard, that *my* name was included in it with theirs. So highly do I respect the character of those men, that I deem it an honour to share in the injustice it has suffered. — It is in compliance with the forms of the House, and not to shelter myself, or out of tenderness to the party, that I forbear to name him. I mean to describe him so exactly, that he cannot be mistaken. He declared in his place in a great assembly, and in the course of a grave deliberation, “ that it would have been “ happy for this country, if General Clavering, “ Colonel Monson, and Mr. Francis, had been “ drowned in their passage to India.” — If this poor and spiteful invective had been uttered by a man of no consequence or repute, by any light, trifling, inconsiderate person, by a Lord of the Bedchamber for example, or any of the other filken Barons of modern days, I should have heard it with indifference. But when it is seriously urged and deliberately insisted on by a grave Lord of Parliament—

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by a Judge,—by a man of ability and eminence in his profession, whose personal disposition is serious, who carries gravity to sternness, and sternness to ferocity, it cannot be received with indifference, or answered without resentment. Such a man will be thought to have inquired before he pronounced. From *his* mouth, a reproach is a sentence, an invective is a judgement. — The accidents of life, and not any original distinction that I know of, have placed *him* too high, and *me* at too great a distance from him, to admit of any other answer from me, than a public defiance, for General Clavering, for Colonel Monson, and for myself. This is not a party question, nor should it be left to so feeble an advocate as I am to support it. — The friends and fellow soldiers of General Clavering and Colonel Monson will assist me in defending their memory. I demand and expect the support of every man of honour in this House, and in the kingdom. What character is safe, if slander be permitted to attack the reputation of two of the most honourable and virtuous men that ever were employed, or ever perished in the service of their country? — I know that the authority of this man is not without weight; but I have an infinitely higher authority to oppose to it. I had the happiness of hearing the merits of General Clavering and Colonel Monson acknowledged and applauded in terms, to which I am not at liberty to do more than to allude. They were rapid and expressive. I must not venture to repeat lest I should do them injustice, or violate

the forms of respect, where essentially I owe and feel the most. But I am sufficiently understood. The generous sensations, that animate the Royal mind, are easily distinguished from those, which rankle in the heart of that person, who is supposed to be the keeper of the Royal conscience.

The third division of the bill includes the institution of a new judicature, avowedly repugnant to all the principles of the criminal jurisprudence of this country, and of which there is no example, but the Star Chamber, in the history of England. My surprise and disappointment, when I heard this part of the bill recommended and insisted on by the Chancellor of the Exchequer, are not to be expressed. Yet I might have been in some degree prepared for the event. This is not the first instance, in which I have observed that the right honourable gentleman is never more urgent, is never more eloquent in establishing the truth of a general proposition, or in exalting the virtues of a general principle, than at the moment he is going to introduce an exception to it. — No man, who heard him, can have forgotten, how earnestly and how vehemently he recommended it to the House, not to let their anxiety for the better government of India, however laudable, engage them to do any thing inconsistent with the security of our own domestic establishments, or that might directly or indirectly trench on our own constitution. From this general caution, he proceeded to a warm and animated panegyric of the trial by jury. I declare most solemnly

lemly that I thought he was going to new model the Supreme Court of Judicature at Calcutta, and to restore the British subjects in India to their birth-right, of which they were deprived by the charter of that Court, for no good purpose that I can discover, but certainly without any good effect. When the right honourable gentleman had thus established his premises, by an appeal to constitutional topics, which always gain upon an English audience, he turned short to a conclusion, which I imagine must have disappointed and astonished every man, who was not immediately in the secret—"That the
 " best general rules were subject to exceptions, that
 " necessity created a law of its own, and that such
 " a necessity existed at present. That the punish-
 " ment of Indian delinquents could not be obtain-
 " ed by proceedings in Parliament, nor by prose-
 " cution in the courts of common law,—of course
 " that there was no alternative, but to create a spe-
 " cial judicature, with summary proceedings, and
 " *without the intervention of a jury*, for the trial of
 " offences committed in India."—In the first place, Sir, I deny the supposition, on which the inference is founded. I have no doubt that delinquency of every kind may be effectually tried and punished by the judicatures that exist. But if I thought otherwise,—if I were perfectly convinced that Indian delinquents could no way be punished but by a violent innovation in the criminal law of the kingdom, I would not purchase their punishment at so ruinous an expence. I would not, for the sake of that ob-

ject, though I think it important, consent to a breach of any kind in the principal barrier of the freedom of England. When the precedent is established, I know not what farther innovations may be gradually grafted upon it, or how rapidly it may advance to the destruction of those principles, which it begins with invading. We are not yet however reduced to that consideration. Let us try whether, in effect, the right honourable gentleman is warranted in affirming that there is no alternative. If there be, the principles we both profess oblige him to prefer it. — I am but little of a lawyer, and I am very desirous to be instructed. If I should be mistaken in my facts, some of the Learned gentlemen opposite to me will have the goodness to correct me.

Supposing it to be admitted, that taking the law as it now stands, the formality of pleading, and the difficulty of ascertaining, according to the strict rules of evidence, facts which have arisen beyond sea, are such as will create a failure of justice, it does not follow, that it is at all necessary to deprive persons accused of offences in India of trial by Jury. The Court of King's Bench has already the power of trying misdemeanors committed in India, under the 13th of Geo. III. cap. 63. *with the assistance of a jury*. If the forms of pleading and the rules of evidence stand in the way of justice, let the law be altered ; — with respect to special pleading and evidence, let the King's Bench be governed by the same rules that are laid down to govern the practice of this new Court ; and then it will be as competent

petent as this can be, to take cognizance of, and punish offences committed in India, and still the party accused will, in every instance, have the privilege of being tried by his peers. When the act of 1774 was made, it was thought necessary to alter the law with regard to evidence : and it was accordingly enacted, that depositions, taken under a commission in India, should be admitted as evidence in the King's Bench ; but trial by jury still remained. The Legislature did nothing to affect that mode of trial. Before that act, a misdemeanor committed in India could not have been tried upon an information in the King's Bench, so that here was a new jurisdiction given to that Court ; its jurisdiction was at least extended to offences in India, which were before not cognizable in that Court, either by information or indictment. At common law, treasons committed out of the realm were not punishable in England. To remedy this defect, various acts were made in the reign of Henry VIII. : but even in the arbitrary reign of that Monarch, no attempt was made to deprive the subject of trial by jury. At common law, murders committed in foreign parts could not be inquired into in England ; but by the 33d Henry VIII. cap. 23. they might be inquired of, and tried by the King's *special commission* in England. By that act a *new tribunal* was erected ; but still no attempt was made to abolish trial by jury. Even in that *commission* court, the party had the privilege of being tried by his peers. If it be true, that a new species of criminality makes
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a new course of proceeding unavoidable, the ground of the distinction must be fairly and clearly established. The answer I expect must not be technical, but plain enough to satisfy the understanding of men, who are not learned. When the common interest is at stake, the common sense of the nation should be consulted.

A word or two more on the general situation of the country, and I have done. We have it from the authority of a noble Lord*, or rather of a noble convert, whose opinions very properly bend to his experience, that, at a former period, he had opposed the present Administration, because he disapproved of the courses, by which they had possessed themselves of power; — that the case was *now* completely altered; that the sense of the nation had been unanimously declared, and that the united voice of the nation could not be resisted; — that the Minister had *now* come into power, *at the front door of the House, and on the shoulders of the People*. I do not mean to dispute the truth of these propositions, much less the propriety of any change of opinion, that may be founded upon them. Take the fact as it is stated, and compare it with the consequences, which it has immediately produced. Wherever sensation exists, the comparison will be felt; and, if men are still capable of reflection, it will force them to reflect. The very first act of this popular Administration, of a Minister, who comes into power *on the shoulders of the People*, attacks the Democracy

* Lord Delaval,

of the country, and annihilates the first of all the popular powers of the Constitution. The decision of the question upon the Westminster election, however it may be turned, or in whatever colours it may be dressed, carries you finally and inevitably to this conclusion; that the People of Great Britain *may* be governed by laws, to which they have not consented, and *may* be taxed by a House of Commons, in which they are not represented. If this be the fact of Westminster to-day, why not of London to-morrow, — of Middlesex the next? On the face of the precedent, I see nothing to confine it.

The second measure of this popular Administration attacks the trial by jury, and threatens to abolish it. Such are the instant operations of that very power, which pretends to be derived from the confidence of the People. — But if the People of England are not mad as well as blind, if they have not lost their understanding as well as their feelings, they will soon see how unwisely they have bestowed their confidence, and repent of their delusion, when repentance is too late.

HOUSE

HOUSE OF COMMONS.

MONDAY, July 27, 1784.

“ **T**HE order of the day being read, for taking
 “ into further consideration the Report from the
 “ Committee of the whole House, to whom the
 “ Bill for the better regulation and management of
 “ the affairs of the East-India Company, and of the
 “ British possessions in India, and for establishing a
 “ Court of Judicature for the more speedy and
 “ effectual trial of persons accused of offences in
 “ the East Indies, was committed.”

Mr. FRANCIS.

Mr. SPEAKER,

My objections to the bill, as it now stands, are in some respects changed; but they are very little diminished. It is not to be denied, that the bill has been materially altered, and, in some instances, improved in the Committee. Instead of professing candour, which too often is affectation, I shall
 speak

speaking of the present merits of the bill, with sincerity. I allow that several clauses have been prudently corrected, and others very properly omitted; but I do not mean to admit, that particular improvements, grafted on false principles, can essentially mend the measure. It is possible that a thing, which is wrong in one extreme, may be equally wrong in another. In acknowledging the improvements that have been made, I hope at least to establish a claim to credit, when I return to my objections.

No orders are now to be sent to India by the Commissioners without the knowledge of the Directors, or to the Commanders in Chief in India, without the knowledge of the respective Presidencies. Orders of every kind are now to be conveyed through the proper constitutional channels. While you suffer the Court of Directors to exist, their authority belongs to the constitution of the Company. To pass by the first is to destroy the second. The absurdity of that idea is acknowledged and corrected. The clauses, by which the appointment of the several Commanders in Chief, and of persons to succeed to the command in case of vacancy, was to be given to His Majesty, are omitted. Undoubtedly, nothing could be more extravagant than the idea of separating the military from the civil power of the Company's Government. The alteration was indispensably necessary. At the same time, I have no conception how it can possibly be reconciled to a political principle, which a right honourable gentleman, in opening the

original plan of the bill, laid down as fundamental. He urged and insisted on the truth of this proposition, and asserted it to be inherent in the English constitution, that the armies of any one State, however they might be divided, or wherever they might be employed, belonged to the department of the executive power, and that therefore the appointment to the several commands of the Company's forces should unquestionably be vested in the Crown. He had then forgotten, what he possibly may since have recollected, that the Court of Directors are in fact the executive power of the State in question. But I need not combat a proposition, which he himself has so completely abandoned. The right honourable gentleman, I see, is not obstinately tenacious of his principles, or his complaisance to his friends must be unbounded.

The several clauses in the original bill, which relate to the private debts of the Nabob of Arcot and the Rajah of Tanjore; — the respective claims or undetermined rights and pretensions of those princes; — the reinstatement of dispossessed Rajahs, Zemindars, and other landholders; — the fixation of the rents or tributes to be paid in future; — the reduction of expences, and the final limitation of establishments, offices, and emoluments; — are all completely relinquished, — I will not presume to say, in compliance with *my* opinion, but a good deal in conformity to it. — The principle I recommended seems to be generally adopted, that whatever can be done, immediately by the Directors at home, should
not

not be referred to the servants abroad. Yet I am sorry to see that, in this general sweep, the very best clause of the first bill is included. I mean the one marked 58, by which it was provided “ that it
 “ should not be lawful for the Governor General
 “ and Council of Fort William, or the Governor
 “ and Council of any of the other Presidencies, or
 “ any servant or agent of the said United Com-
 “ pany, of what description or denomination soever,
 “ to alter such tribute, rent, service, or payment
 “ as the said Court of Directors should have finally
 “ confirmed, upon any pretence whatsoever, or to
 “ exact from or impose upon any native Prince, or
 “ his heirs, or persons claiming under them, any
 “ greater or different tribute, rent, service, or pay-
 “ ment, than such as should have been confirmed
 “ by the Court of Directors.”

I most earnestly recommend it to the right honourable gentleman to reinstate this clause, or to revive the spirit of it, in terms accommodated to the new principle which appears to be assumed. The tribute once fixed, I would not leave it in the power even of the Directors to alter it.

The clause, respecting presents, is properly amended. Wherever the prohibition is right, it ought to stand without exception. Admitting that presents were really and purely ceremonial, in my mind they degrade the dignity of a high station instead of exalting it. What in fact, and even in appearance, can be more disgraceful, than for a British Governor to hold out his hand to receive a

few gold mohrs or rupees from every native, who comes to visit him, and frequently from persons, who are unable to afford it. The true dignity of power is to be accessible to its subjects, without expecting them to pay for it. With respect to the subordinate ranks of the service, I still have my doubts. I am perfectly satisfied, that in the present state of the service, no law can prevent the practice, and I am not sure that you ought to attempt it. I have no expectation that such a direct provision will ever be made for the Company's servants, as will even afford them a subsistence; much less an exceeding, out of which an independence can be gradually accumulated, by any efforts of œconomy. People in England have no idea of the expence of living in Bengal. There is no such thing as commerce. The few, who have engaged in enterprises of internal industry, have either totally failed, or been obliged to abandon them:— and the salaries, given by the Company, below the Board of Trade and the Colonels of Brigades, are very inconsiderable. Yet no man should be cut off from the hopes of a reasonable and moderate independence, in proportion to his station.— Human institutions should consult human nature.

I believe, Sir, I have now taken notice of every material amendment, that deserves commendation. The other branches of the subject are more numerous and productive.

In comparing the present bill with the first, there is one general preliminary observation to be made upon

upon them both ; that the two bills draw two conclusions equally false, though perfectly different, from one and the same false principle of policy. The principle, common to them both, is, that, where power is really wanted, where power ought to be strengthened, the surest way to strengthen it will be to divide it. On this foundation, the first bill, instead of uniting the executive powers of the Company in any one Board, divided them between the Commissioners and the Directors, with so great a preponderance in favour of the former, that the latter in reality were reduced to nothing and ought to have been abolished. On the same foundation, the present bill continues to divide a power, which ought to be united, but distributes it differently. The Crown and the Commissioners surrender almost every thing they had taken, and the Directors are re-invested with a power, which evidently supposes them fit to be highly trusted. But the trust, as it stands, is incompatible with the control. The first bill, placing no confidence in the Directors, divested them of all power. The amended bill continues a check, in which the same want of confidence is implied, yet restores them to a power, which ought never to be given to men who are distrusted. — With respect to the governments abroad, the means taken to accomplish the professed object of both the bills are nearly the same. In order to make the power at home more capable of governing, they divide it. But, in order to make the power in India more governable, they strengthen and unite it.

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This is the sense, in which the old maxim, *divide et impera*, is now understood. This is the way, in which ancient maxims of policy are interpreted and applied by modern politicians.

The amended bill reduces the Presidency of Fort William to a Governor General and three Counsellors, for the immediate purpose, *expressly avowed* by the Chancellor of the Exchequer, of giving effect to the casting voice, in order to increase and strengthen the power of the Governor General. This, I believe, is the first example of such a use and application of the effect of a casting voice. In all deliberative councils and assemblies whatever, the true and natural principle of decision is by a real majority of votes. But numbers, who debate, may disagree; and, if the whole number happens to be even, they may possibly divide into equal parts. In that case only, the operation of the casting voice is made use of to create a fictitious majority, not for the purpose of giving power, but merely to obtain a decision. — Hitherto the casting voice has been considered as a necessary provision against a possible inconvenience. The present bill creates the inconvenience, not merely for the purpose of correcting it, but to convey a power, which, if proper to be given at all, ought to be given by a direct course, and secured against accidents. On the principle of the clauses in question, the Governor General ought to be a distinct person, and vested with powers independent of the Council. — As long as a Council of four is full, the whole power, that belongs to it, will

will certainly vest in the President, provided he has skill enough to secure the blind and devoted support of any one of the other three; and this, I know, may be done. But, suppose his complaisant friend should die or depart, and the other two should continue obstinate; — the declared object of the bill is defeated. — The President is reduced to a state, in which he can do nothing but perplex or embarrass the others, and in that state he must remain, until his interest and influence at home shall have accomplished another appointment. A year and a half at least must elapse, before his new colleague can come to his assistance. — If therefore the power be proper, the bill should take care to provide for its being held and exercised without interruption. — Sir, I am not supposing imaginary cases. The opposition to Mr. Hastings has not been confined to General Clavering, Colonel Monson, and myself. His present colleagues, Mr. Wheler, Mr. Macpherson, and Mr. Stables, have exactly the same opinion, that we had, of him and of his measures. Their opposition is as vigorous as *they* can make it, and, I believe, more deeply resented by Mr. Hastings, than ours. — From *our* opposition, however it might distress him, he felt no degradation. Of his present colleagues I know he has written home to this effect, that he should have quitted the Government long ago, if he could have ventured to leave it in *such* hands as *theirs*!

But perhaps it may be suspected that the Chancellor of the Exchequer, in forming this arrangement,

ment, has been guided by experience, and that he has facts of importance to appeal to in support of it. — I will tell the House how the facts stand, and leave it to their judgement to compare them with the arrangement. Some of the Directors are present, and I call upon them to support me if I am right, or to contradict me if I am wrong.

Before the death of Colonel Monson, the Council consisted of five persons. I do not mean at present to inquire into the respective merits of the two parties, into which it was divided, or to exalt one at the expence of the other. For the immediate purpose of the present argument, it is sufficient for me to say, what every man in India and in the direction knows to be true, that, while the Government of Bengal was in the hands of five persons, the Company's affairs were prudently conducted, and prospered accordingly. The system, laid down in their general instructions, was observed; — their orders were obeyed; — their debts were discharged; — their treasury was filled; — and great investments were provided by savings out of the revenue. Above all the rest, *we fixed our attention to the preservation of peace throughout India.* We maintained it ourselves, and, when it was violated by the Presidency of Bombay, we restored it by a direct interposition of the authority of our Government. When the death of Colonel Monson had reduced the Council to four, which it seems is now the favourite number, the mischiefs, which have since desolated India and ruined the India Company, began to operate. The
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second war with the Marattas was planned at Bombay the moment they heard of the death of General Clavering, and received, embraced, and promoted by the Governor General and Council, the moment the plan was communicated to us. In less than five months after the death of General Clavering, the resolution was taken at Fort William to break the definitive treaty of peace concluded but a year before at *Poorundur*, and to send an army across India to invade the *Peshwa's* dominions. The General's place was soon supplied by Mr. Wheeler, so that, from Colonel Monson's death in October 1776, to the arrival of Sir Eyre Coote in March 1779, the Council consisted of four persons, excepting an interval of three or four months, in which I stood alone against Mr. Hastings and Mr. Barwell; and in that period, I affirm that all the mischiefs, with which you are now oppressed, took their birth, and grew into effects, which by this time, I fear, are not to be retrieved. — Your treasuries are empty; — your debts are insupportable; — your investment, when you have any, is paid for by bills on the Company, and two thirds of India have been laid waste. With these facts before you, is it possible for the Legislature to reject the number, under which the Company's affairs were wisely and happily conducted in India, and voluntarily prefer that, under which every thing has been done, which this very law professes to condemn, and most strongly prohibits?

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By

By the seventeenth and eighteenth clauses of the amended bill, the situation of a Commander in Chief of all the Company's forces in India is now provided for. At last it has been discovered, that such an office exists. I have no objection to the voice and precedence given him in the Supreme Council, or at the subordinate Councils of Fort St. George and Bombay, when he shall happen to be at either of them. — But I strongly object to the situation, in which his arrival there will place the respective Commanders in Chief at those two Presidencies. He not only supercedes them in rank, but reduces them to silence. During *his* stay, they are only to have a seat, but no voice, in the Council. The House will observe that this is a civil office, not a military command; but, even on the strictest military ideas, the provision is absurd. The arrival of a superior officer dispossesses the inferior, but does not annihilate him; he still continues second in command, with a real and effective, though not with an equal authority. For what reason he is instantly to be converted into a mute, I cannot conceive. Naturally he ought to be better informed than a stranger concerning the affairs of the Presidency, where he has commanded. ' But the object of the clause is to silence the person, who, having the best information, ought to be specially consulted. It ought to be considered too, whether gentlemen of high rank in the army, whether a general officer in the King's service, who may happen to command upon the coast, be likely to submit to this sort of treatment,

treatment, or how far it may wound the honourable feelings and spirit of the profession?

Sir, I shall leave the remaining regulations of the bill to other gentlemen, who I believe have considered them with proper attention, and go at once to that article, which, I confess, is to me more important than all the rest. I mean the new judicature, which the bill introduces into the criminal law of this country. I perceive that, in the apprehension of some gentlemen, this part of the bill has been considerably corrected and improved by the amendments made in the Committee, and that some gentlemen, who objected to it at first, are now satisfied. I am truly sorry for it; because I wish that the principle of every measure, which I deem to be dangerous to the constitution, should appear at once to the public view, undisguised, in its real shape, and in the colours that belong to it. *They* deceive themselves grossly who imagine that that, which is essentially wrong, can ever be formally right. It cannot be corrected or improved, because the defect is in the essence, not in the form. And why should you lay aside the trial by jury in the case of Indian delinquents? I have yet heard no one affirmative reason assigned for it. Is it suspected that a Jury will not do justice? You have no ground for the suspicion; on the contrary, in the only case in point, in the only case of Indian delinquency that has been prosecuted in a court of common law, the Jury did their duty. I do not mean to enter into the merits of the prosecution of Mr. Stratton and Mr. Brooke for

dispossessing and imprisoning Lord Pigot ; it is sufficient for my present purpose to say, that the public in general thought that those persons deserved to be severely punished, and expected that they would be so. Why were they not ? The Jury did *their* part in finding them guilty. If they were not sufficiently punished, it was the fault of the Bench. Now, observe the consequence : You lay aside the Jury, who, in the only instance in point, did every thing that depended on them to bring the criminals to condign punishment, and you think you are sure of justice, in uniting the incompatible offices of Judge and Jury in the same persons, who, the only time they were tried, have totally disappointed the public expectation of public justice. But all reason and argument are useless against power. If a British House of Commons can, on any terms, consent, in any instance, to abolish the trial by Jury, and if the people at large are insensible of the danger of such a precedent, individuals, who have done their duty, must submit to their share in the mischief, which they could not prevent. I fear the temper and character of the nation are changed. Though I am not an old man, I can remember a time, when an attempt of this nature would have thrown the whole kingdom into a flame. Had it been made when a great man*, who is now no more, had a seat in this House, he would have started from the bed of sickness, he would have solicited some friendly hand to deposit

* the late Earl of Chatham.

him on this floor, and from this station, with a monarch's voice, would have called the kingdom to arms to oppose it. But *he* is dead, and has left nothing in this world, that resembles him. He is dead, and the sense, and honour, and character, and understanding of the nation are dead with him. But it seems there is a *necessity*, that supersedes all objections. Justice must be done, and criminals must be punished. Sir, it requires some fortitude; it requires patience, long exercised, to endure so gross a mockery. The bill, that threatens future punishment to future crimes, gives you a special earnest of its sincerity, in sheltering every offence, and protecting every offender who has hitherto existed, or who does exist at this hour. The present law opens its bosom to receive them, and there they are safe: nay, it carries its precaution farther; it provides for the security of crimes *in esse*, that are actually unfinished, and allows a sufficient time, in which they may be completed. When these honourable services are accomplished, strict Justice is then to take her seat. From that moment we are never to see any thing but her sword. When the whole harvest has been plundered, when the field itself has been trampled into dust, you denounce racks and gibbets to the petty larceny, that hereafter may glean a few ears of corn. I have done my part to the utmost of my little judgment and ability. From those, to whom more has been given, more will be expected. What I have said will not be useless, if it suggests the materials
of

of reflection to others, and furnishes employment for greater abilities.

The other regulations of the bill may be thought to require immediate dispatch. If they are proper to be executed at all, they cannot be carried too soon into effect. But no argument of that kind can be applied to the clauses, that regard the Judicature. The bill, on the face of it, expresses no particular hurry to punish any body. — For what possible reason then, should this part of the bill be so urgently pressed forward to keep pace with the rest? — The present Administration, we are told, possesses the confidence, and are at all times ready to appeal to the judgement of the People. Let us see whether they are ready to act up to their professions. Surely, Sir, there never can be an occasion more proper for an appeal to the sense of the nation, than when Government is going to introduce a new mode of trial into the law of this land, which, in the first instance, deprives a part of the people of their common right, and which, on similar pretences, may be extended to the whole kingdom. If the nation acquiesces, you lose nothing by the delay. If not, you are bound by your principles to relinquish the attempt.

Allow me a word at parting to an honourable *, and a learned † gentleman : to one of whom I am much indebted, and to the other, specially engaged. The honourable gentleman assures the House, that

* Major John Scott, member for Westloo.

† Henry Dundas, Esq. member for Edinburghshire.

he is not the representative of Mr. Hastings, though a considerable part of his life be employed in attacking, defending, and resenting for that gentleman. I observe it to his credit, that, although he is not a principal in these questions, he takes part in them with no less activity and zeal, than if the cause were directly and essentially his own. Between the honourable gentleman and me there is not, nor ever has been, any personal subject of offence. In one sense therefore, I may be permitted to consider him as the representative of Mr. Hastings, since every man of honour is properly the representative of an absent friend. This, I presume, was the principle, on which the honourable gentleman must have acted, when he very lately created an opportunity of reciting to the House some tedious passages from a letter of ten years standing, which, pronouncing it to be extremely dull, he naturally, and I cannot say unwarrantably, concluded to be mine. But his eagerness to punish the guilty, made him forget that the House was innocent. The honourable gentleman had no mercy upon either. Not confining himself to my supposed writings, he thought it a good opportunity to produce some serious charges against my conduct. To these last, my answer upon the instant, I believe was thought sufficient. My own feelings assured me, that I carried the sense of the House along with me. To his assertion, that we went to India pre-determined to declare war with Mr. Hastings at the moment of our arrival, I said, that the moment of our arrival gave us an insight

insight into his conduct, which made it impossible for us, as honest men, to unite with him. Contrary to all his own repeated declarations and professions respecting a pacific system, we found the Company's army engaged by him in the extirpation of the Rohilla nation, with whom we had lately been in alliance, and with whom the English had no quarrel whatever, for the sole and acknowledged purpose of gaining a sum of money. We found he had sold the extirpation of a whole people, who had never offended us, for forty lacks of rupees; not a rupee of which had been paid, though the service was compleated. We found a third part of the whole military force of Bengal had marched to places, so remote from our own territory, that none of the ordinary maps of Hindostan went far enough north to include their situation. I submit to judgement, whether these facts alone did not oblige us to alter our opinion, not only of Mr. Hastings's political conduct, but of his personal character. The prejudices we carried with us to India were passionately and almost absurdly in his favour. I need not enter farther into the merits of a question, on which every tribunal, that was competent to examine it, has formally pronounced condemnation against him. On the 28th of November, 1775, the Court of Directors unanimously resolved, " That the agreement made with
 " Sujah Dowlah, and the then Governor, (Mr.
 " Hastings) for the hire of a part of the Compa-
 " ny's troops for the reduction of the Rohilla coun-
 " try,

“ try, and the subsequent steps taken for the car-
 “ rying on that war, were founded on wrong poli-
 “ cy, were contrary to the general orders of the
 “ Company, for keeping the troops within the
 “ bounds of the provinces, and for not extending
 “ their conquests; and were also contrary to *those*
 “ *general principles of justice*, which the Company
 “ wish should be supported.”

Even his special friends the Proprietors, on this
 occasion concurred with the Directors. Except that
 he had interest enough in that quarter to get the re-
 ference to *justice* omitted, the whole body of the
 Proprietors, *und voce*, condemned him. On the
 6th of December, 1775, they resolved unanimously,
 “ That notwithstanding this Court hath the highest
 “ opinion of the services and integrity of Warren
 “ Hastings, Esq. and cannot admit a suspicion of
 “ corrupt motives operating on his conduct with-
 “ out proof; yet they are of opinion, with their
 “ Court of Directors, that the agreement made
 “ with Sujah Dowlah for the hire of a part of the
 “ Company’s troops for the reduction of the Ro-
 “ hilla country, and the subsequent steps taken for
 “ carrying on that war, were founded on wrong
 “ policy, were contrary to the general orders of the
 “ Company frequently repeated, for keeping their
 “ troops within the bounds of the provinces, and
 “ for not extending their territories; and were also
 “ contrary to those general principles, which the
 “ Company wish should be supported.”

The honourable gentleman was then pleased to charge me with having opposed General Clavering on a particular occasion, but with so much apparent reluctance, and in terms of so much doubt and apprehension, as evidently betrayed the dependence of my situation. A difference of opinion seems a strange proof of dependance. He concluded however that I was bound by some secret instructions to follow the dictates of General Clavering, and that, when I refused to be guided by him, I hazarded my employment. This, indeed, if it were true, would be a serious charge not only against me, but against General Clavering himself, whose memory the honourable gentleman professes to respect, and against the noble Lord * in the blue ribband, by whom alone such instructions could have been given. The honourable gentleman, however, has in some degree answered his own charge. Forgetting every thing that he had said of my supposed dependence on my colleagues, he almost in the same breath assured the House, that, with respect to General Clavering and Colonel Monson, I was *primus inter pares*, and that being at the head of a majority, I had in effect the whole government in my hands. If that be true, my colleagues were no more than cyphers at my disposal. But in reality, the charge and the defence are equally trifling. I differed with General Clavering, not once but often, as the honourable gentleman will find, if he will look over our proceed-

* Lord North.

ings. Men of real honour, though generally united, and acting together on the same general principles, will often disagree, and when they disagree, will be ready to declare it. Men of a different character, uniting on a different principle, will never disagree in particulars, as long as their general engagement to each other subsists. It is perfectly true that I felt and expressed the utmost anxiety at differing from General Clavering on a question of importance; but not for the reason suspected by the honourable gentleman. I dreaded the construction, which ignorance and malignity would be ready enough to give to my concurring with Mr. Hastings. I knew my situation. When I opposed him, it was faction. When I concurred with him, it was corruption. The honourable gentleman, however, has omitted a material part of the story. He has inadvertently neglected to inform the House that the Court of Directors, in their letter of the 5th of February 1777, *intirely agreed with me* on the point in question.

The honourable gentleman says that we should have acted wisely for the public service, if, instead of looking back to the errors of former times, we had drawn a veil over every thing that was past, and directed our efforts to future improvement. Sir, I am not of that opinion. I have no idea that such a plan would have been practicable, and I am sure it would have been unjust. Injustice is not valid because it has been done. We could not absolutely shut our ears to complaints. We could not say,

that no man, who had been injured, should ever be redressed. The Supreme Court of Judicature looked very far back indeed, when it was their object to make an example, and to hold it out to the natives. But if the contrary had been true ; — if the honourable gentleman's abstract opinion were ever judicious, he forgets that we had no choice. He forgets that the Court of Directors prescribed to us the very conduct we observed, and applauded us highly for pursuing it.

The only point, on which I could not instantly recollect enough of the subject to give the honourable gentleman an immediate answer, regarded the representation, which he says, I drew up in December 1774, of the condition of Bengal at that time. He charges me with a wild exaggeration in saying, that Bengal, even then, was *reduced to the hazard of beggary and ruin*. Sir, a mere question of personal debate between the honourable gentleman and me, would be of too little moment, even to ourselves, to be obtruded on the House, if it did not lead to information immediately connected with the general subject-matter of our present deliberation. You are going to make a law for the better government of Bengal. It is therefore proper you should inquire, what the state of Bengal was ten years ago, when the Legislature first interposed for the same purpose. The House should next endeavour to possess itself of the events, which have happened in the interval, and then

then you will be able to determine, what is probably the actual state of the object, concerning which you are going to exercise your legislative power.

The House, I imagine, will hear with surprise, that the first intimation I received of the distress of the Government of Fort William, was in a private conversation with Mr. Hastings himself. On evidence of this kind, I certainly should think it improper to insist, if it had not concurred with many recorded declarations made by Mr. Hastings to the same effect. The fundamental argument constantly used by him in defence of the Rohilla war, was, the distress of the Company's affairs both at home and abroad. In his minute of the 3d December, 1774, he says,

“ All our advices, both public and private, re-
 “ presented the distresses of the Company at home,
 “ as extreme. At the same time, such was the
 “ state of affairs in this Government, that for many
 “ years past, the income of the year was found in-
 “ adequate to its expence, to defray which, a hea-
 “ vy bond debt, amounting at one time to a hun-
 “ dred and twenty-five lacks of rupees, had accu-
 “ mulated. By allowing the Vizier the military
 “ aid, which he required, a saving of near one
 “ third of our military expences would be effected
 “ during the period of such a service, and the sti-
 “ pulation of forty lacks would afford an ample
 “ supply to our treasury, and to the currency of the
 “ country.”

On

On this declaration, our first observation was, *that urgent distress was implied in the violent nature of the remedy.*

The maxims of policy invented by Mr. Hastings to support the fact, accommodate themselves perfectly to the motives on which he acted.

30th Nov. 1774.

“ If the internal resources of a state fail it, or
“ are not equal to its occasional wants, whence can
“ it obtain immediate relief, but from external
“ means ?”

30th Nov. 1774.

“ I shall be always ready to profess, that I do
“ reckon the probable acquisition of wealth among
“ my reasons for taking up arms against my neigh-
“ bours.”

Observe, Sir, that one of Mr. Hastings's motives for taking up arms against his *neighbours*, not against his *enemies*, is plainly and explicitly to get possession of their wealth.

With respect to the actual distress of the Government and country of Bengal, I desire nothing to be believed on my own assertion. On the 17th of October, 1774, a day or two before our arrival at Calcutta, Mr. Hastings and his Council drew up a letter to the Court of Directors in defence of the Rohilla war, which they principally rested on “ the
“ acquisition of forty lacks of rupees to the Com-
“ pany, and of so much specie added *to the ex-*
“ *hausted currency of these provinces :*” not a rupee
of

of which, however, was received until some time after our arrival.

With respect to the internal state of the provinces, I presume that the evidence of the late Mr. Samuel Middleton, one of the oldest and most experienced of the Company's servants in Bengal, will be allowed to be conclusive. If it were not, I could support it by a mass of other evidence of equal authority. In his letter of the 5th of February 1775, near five months after our arrival, he says, "When
 " a very considerable portion, supposed even a third
 " of the whole inhabitants, had perished, the remaining two thirds were obliged to pay for the
 " lands now left without cultivators. The country
 " has languished ever since, *and the evil continues*
 " *enhancing every day.*" Now, Sir, I think it will be admitted, that no description of national or political distress can easily be exaggerated, which is founded on evidence and authorities such as these. But has any thing happened, since that time, to improve the state of the country? — Excepting the short interval, in which General Clavering's principles and authority prevailed, have you heard of any thing but war in all parts of India? — But the oppression and rebellion of Princes subject to your power? — Mutinies among the native troops for want of pay? — Extraction of specie from Bengal for the support of the other Presidencies, the enormous amount of which is stated as the merit of Mr. Hastings? — Investments bought with paper — and draughts on the Directors, and debts accumulating
 without

without end? Put the facts together, and then the House will be able to determine, whether the labour they have at last undertaken of correcting so many disorders, and recovering our Indian possessions from so many distresses, be a task of *common* magnitude, or likely to be accomplished by *common* men?

Now, Sir, having dismissed the serious part of the honourable gentleman's charge, I hope he will allow me to make a few observations on the manner and time, in which it was produced. Supposing him for a moment to be the representative of Mr. Hastings, and to feel for that gentleman as sensibly as he could do for himself, I beg leave to observe to him, that his severity to me is not justified on any principle of retaliation. I never sought for Mr. Hastings's letters. The honourable gentleman himself brought them before the House, and triumphantly referred the contents of them to an attentive examination. But, if it had been otherwise, I cannot admit, that an inoffensive pleasantry, which wounds no man, and sometimes enlivens the gravity of debate, is equitably retorted by a serious deliberate attack upon the moral conduct or character of an opponent. It is not likely that I should ever have occasion to make a similar reflection on that of the honourable gentleman. His actions are too well guarded, and my disposition to him is too amicable, to allow me to suppose the probability of such a case. Admitting it nevertheless to happen, I certainly should not follow the example he has set me.

I would

I would not endeavour to take him by surprise. I should not expect him to carry letters or transactions of ten years standing, correctly in his memory. If I thought myself obliged to bring a charge of any kind against him, I should think myself much more bound, in honour and in justice, to give him previous notice of my intention, and warn him to prepare for his defence.

I am now to reply to the learned gentleman opposite to me, and with that I shall conclude. A challenge from him undoubtedly does me honour, for it supposes, in *his* mind at least, an idea, which does not exist in mine, and could not have occurred to any other, that, on the subject in question, there is some approach to equality from me to him. Not being conversant in the forms of the House, I did not know, until some some hours later in the same evening, that I was at liberty to write down the words of gentlemen, uttered perhaps hastily in debate*, for the purpose of answering them at a future occasion. — In a day or two after, I endeavoured to recollect the learned gentleman's words, and I believe I have taken them very exactly. If not, I hope he will do me the favour to correct them. He said, "That gentlemen had talked in a loose
" general way of disobedience of orders, without
" coming to particulars; — that if they would point
" out instances, he should know where to grapple

* Mr. Durdas had quoted words of Mr. Fox, which he said he had taken down two years ago.

“ with them. — With respect to the Maratta war,
 “ he affirmed that Mr. Hastings was not guilty of
 “ disobedience of orders ; — that the Directors
 “ themselves were to blame, in forming and en-
 “ couraging a plan of conquest on the Malabar
 “ coast, and that Mr. Hastings, in commencing
 “ and pursuing the Maratta war, had not disobey-
 “ ed orders, but had conformed to the views of
 “ the Directors. — That Mr. Hastings nevertheless
 “ was greatly to blame for violating the treaty of
 “ Poorunder. On the truth of these assertions,
 “ the learned gentleman challenged me, and de-
 “ clared himself ready to meet me at any time and
 “ on any ground*.”

I must confess, Sir, that this language, especial-
 ly from the learned gentleman, appeared to me
 very extraordinary. I hardly ever heard any thing
 with greater surprise. He has employed himself,
 near two years together, with infinite industry and
 toil, in an inquiry into the abuses that prevail in the
 India Company's service. — He has published the
 result of his laborious investigations in many folio
 volumes, which, I verily believe, no man in the
 kingdom has read but myself. — The present bill,
 of which the learned gentleman is *prochein ami*†, if
 not parent, supposes *wilful disobedience* in every de-
 partment of the service ; — the constant complaint

* Mr. Dundas assented to the exactness of this recital of his words.

† A term used in law for him, who is the next friend, or next
 of kin to a child in his nonage.

of the Directors has been that their orders are not obeyed; and finally the right honourable gentleman, who proposes the bill, particularly urged and insisted on the necessity of conquering a spirit of resistance, universally prevailing among the Company's servants in India. On any other presumption, the clause would be superfluous. In the face of all this evidence and authority, the learned gentleman gravely assures the House, that there have been no examples of disobedience, or that the instances, if any, have not been material. He calls upon his opponents to come to particulars, and then he shall know where to *grapple* with them. Sir, I will not weary the House with a multitude of quotations from the Company's records. They are filled with the very proofs and examples, which the learned gentleman calls for. Setting aside orders indifferent to the servants abroad, and which of course they had no motive to disobey, and setting aside orders, which were capable of being converted to some purpose of their own, — for these they have obeyed not only with exactness but ostentation, I affirm that, so far from its being difficult to find instances of disobedience, the difficulty would be to point out an order of the Directors, that ever was regarded. The India Company little know, in what sort of estimation their Directors are held in India. But it is proper I should encounter the learned gentleman on his own ground. Let him ask the Directors, what they think of the following examples. They are not mere facts, for which excuses or pre-

tences might be invented, but formal acts of disobedience, deliberately avowed and defended on principle.

The first is the well-known case of Mr. John Bristow, who had been recalled by Mr. Hastings from his station at Lucknow, without any charge whatever against his conduct, and whom the Directors repeatedly ordered to be re-instated. Your Select Committee * have reported to you, in what manner those orders were regarded. The general ground taken and avowed by Mr. Hastings was, that the orders in question invaded *his prerogative*, and he should be degraded by obeying them.

The second is the case of Mr. Francis Fowke, which has also been fully reported to you by your Select Committee. This gentleman was recalled from Benares by Mr. Hastings, who declared that there was *no charge nor the slightest imputation of a charge against him*. The Directors repeatedly ordered him to be re-instated, but to no purpose. In their letter of the 27th of May, 1779, they say, " We have read, with astonishment, your formal
" resolution, to suspend the execution of our orders
" relative to Mr. Francis Fowke; your proceedings at large are now before us; we shall take
" such measures as appear necessary for preserving
" the authority of the Court of Directors, and for
" preventing such instances of *direct and wilful disobedience* in our servants in time to come." On

* Ninth Report, page 56.

this occasion, the principle maintained by Mr. Barwell was, that " he must decline an acquiescence " in *any* order, which had a *tendency* to bring the " Government into disrepute."

If the learned gentleman says, that these are instances of no great moment, I shall leave him to settle that question with the Directors. Instead of combating his opinion, I shall take the liberty of asking him, whether he seriously means to refer it to the Company's servants to determine, whether the orders they receive are material or not. If he does, I can venture to assure him, that the latitude he allows is sufficient to answer all their purposes, and that they are not so unreasonable, as to desire any greater.

The business of contracts alone has opened a wide and fertile field of disobedience. The fundamental principle laid down by the Company was, that all contracts should be annual; that the Government should advertise for proposals, and always give a preference to the lowest bidders. These rules, I presume, would be deemed unexceptionable, if they did not limit the patronage of men in power in India, or the profits of their friends. Mr. Hastings and Mr. Barwell gave all the contracts, to persons of their own choice, on their own terms, for five years instead of one, and without advertising for proposals. I beg the learned gentleman will attend to what the Directors themselves have said upon the subject. In their letter of the 23d of December, 1778, among many other observations, they say,

Par.

Par. 59. " This waste of our property cannot be
 " permitted. You † have disregarded our autho-
 " rity, and disobeyed our orders, in not taking the
 " lowest offers."

77. " In order to prevent the Company's money
 " from being thus given away in future, we posi-
 " tively direct," &c. &c.

99. " With these materials before you, the ques-
 " tion is put, whether the contractor's terms, or
 " the proposals of Mr. Johnson, shall be accepted :
 " Mr. Francis, in strict conformity with the Com-
 " pany's orders, and according to established usage,
 " was of opinion, that the contract should be ad-
 " vertised. Mr. Barwell thought the present con-
 " tractor had, the preceding year, by making low
 " proposals (to use his own phrase) ejected Mr.
 " Johnson, in hopes of obtaining future indulgence,
 " and therefore he could not hesitate to give his
 " vote for Mr. Johnson."

100. " However strange Mr. Barwell's motive,
 " for giving his vote for Mr. Johnson, may appear
 " to us, we must confess, the Governor General's
 " reasons for concurring therein were still more
 " extraordinary. His words are, *I disapprove of*
 " *publishing for proposals ; this contract is reduced too*
 " *low already, and will require a vigilant attention to*
 " *it on the part of the commanding officer of the corps*
 " *of the army, that it will be duly performed ; to*
 " *which he adds, that according to the best informa-*

† Mr. Hastings and Mr. Barwell.

" tion

tion he had been able to obtain, little profit would be made by the contractor, if he did his duty."

101. "But although the Governor General has thought proper to express so direct and pointed a disapprobation of the mode adopted and positively enjoined by the Company, for conducting so great a branch of their affairs, as that of the army contract, we nevertheless adhere to the propriety of the Court's orders," &c.

If this part of the subject should be thought to require any farther proof or explanation, the Records of the India House will furnish it in abundance. If the learned gentleman be still dissatisfied, if he still has any passion for combat, I shall leave him to grapple with the Court of Directors.

I do not perfectly understand the learned gentleman, when he says, in the same breath, that Mr. Hastings is not answerable for the second Maratta war, *though he was greatly to blame for violating the treaty of Poorundur.* The breach of the treaty and the war are one and the same act. When he broke the treaty, he created the war. But it seems, he did it in compliance with instructions from the Court of Directors. Had that been the fact, it would have redounded to the credit of Mr. Hastings, if, in that instance, he had treated their orders with the same disregard, which he did in every other. He would then have had the real merit of supporting the permanent fundamental principles; the wise pacific policy of the India Company against an incidental order from a fluctuating Direction.

But

But it is not so. Sir, I am not a professed advocate of the Court of Directors, and they are very well able to defend themselves. In this instance, however, it is but justice to them to say, that they have not been justly accused. First of all, let us consider what the Company's acknowledged system is. If I am not very ill informed, the learned gentleman himself has heretofore declared, that their *written* instructions would compose a perfect code of political wisdom.

In the very first article of their general instructions to Bengal, dated the 29th of March, 1774, they say, "We direct, that you fix your attention to the preservation of peace throughout India, and to the *security* of the possessions and revenues of the Company."

In their letter of the 15th of December, 1775, they say,

Par. 4. "We disapprove all such distant expeditions, as may eventually carry our forces to any situation, too remote to admit of their safe and speedy return to the protection of our provinces, in cases of emergency."

5. "We also *utterly* disapprove and condemn offensive wars; distinguishing, however, between offensive measures unnecessarily undertaken with a view to pecuniary advantages, and those, which to the preservation of our honour, or the protection or safety of our possessions, may render absolutely necessary."

6. "The

6. "The attention paid by the *majority* * to the
 "tenor and spirit of our orders on this subject, is
 "highly agreeable to us; and it is our most posi-
 "tive direction, that no deviation from those or-
 "ders be permitted, but upon the most urgent and
 "absolute necessity; as that alone can justify a de-
 "parture from them; for the prospect of any ad-
 "vantages, however alluring, can in no wise be
 "adequate to the pernicious consequences which
 "must result from examples of disobedience to our
 "orders."

7. "The sentiments expressed by the *majority* †,
 "in the thirty-sixth paragraph of their address,
 "coincide exactly with our own; their determina-
 "tion to endeavour to maintain peace in India, and
 "vigorously to defend our possessions and allies,
 "cannot be too much applauded: we therefore
 "strictly enjoin every member of our Council, to
 "concur heartily in such measures as may be ne-
 "cessary for accomplishing these desirable pur-
 "poses."

8. "We have already, in our letter of the 3d of
 "March, 1775, expressed our extreme concern, in
 "finding that our arms had been employed in con-
 "quering the Rohilla country for Sujah Dowlah,
 "and disapproved the measure; and we have no
 "reason to alter our sentiments respecting that
 "transaction."

* Clavering, Monson, and Francis.

† Ditto.

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In their general instructions to the Commissioners appointed in the year 1769, they say, "In all your treaties with the country powers you are to take care, that they be so framed, as neither immediately nor eventually to engage the Company in any disputes between those powers,"

These documents, out of a multitude, are sufficient to establish the general views and principles of the Court of Directors. With respect to the particular point in question, it happens that they gave a particular injunction. In a letter of the 4th of July, 1777, they say, "Though the treaty (of *Poorundur*) is not, on the whole, so agreeable to us, as we could wish, still we are resolved strictly to adhere to it on our parts." If the Directors could have been mad enough to send out orders to set aside those, which I have recited to the House, deprivation of power would be but a small portion of the punishment their conduct would deserve.

A word or two of personal application to the learned gentleman, and I have done. I have observed with concern, that his mind is not so perfectly free, as it ought to be, from uneasy sensations. He is conscious that, amidst contending parties, he has done his duty impartially; — that, in speaking of Mr. Hastings, his language had been exactly balanced between condemnation and applause; — that he never said that Mr. Hastings was either a very good man or a very bad man; meaning, as we all do, the political principles of the governor, not the
moral

moral character of the man; and that having pursued this middle, even course, without the smallest inclination to either side, he had not had the good fortune to satisfy any body. This indeed is too often the lot of moderate men in violent times. But I have great pleasure in being able to assure the learned gentleman, that *his* lot is directly the reverse of what he thinks it. Instead of pleasing nobody, he has had the wisdom to observe a conduct, by which every individual of every party has been gratified in his turn. I shall contribute to the public service, if I can assist in relieving him from this ill-founded apprehension. He cannot be disturbed in his application to business, without injury to the public. To remove one half of his apprehensions I need only read to him some of his own resolutions regarding Mr. Hastings, which I dare say he has totally forgotten.

*“ Extracts from the Resolutions of the Committee of
“ Secrecy, 28th May, 1782.*

Resolved, 18. “ That the resolution of the majority of the Supreme Council, on the 2d of
“ February, 1778, which, by the death of Colonel Monson, was now decided by the casting
“ voice of the Governor General, had a strong tendency to a renewal of the Maratta war.”

35. “ That the instructions and powers given
“ to Colonel Goddard by the Supreme Council, on

“ the 5th of April, 1779, fixed on them, from that
 “ time, the chief direction and responsibility of
 “ the war with the Marattas.”
 39. “ That it must be reckoned among the many
 “ additional mischiefs, which have arisen chiefly
 “ from this imprudent war with the Marattas to
 “ the Company’s affairs; that the military force of
 “ the Carnatic had been weakened by reinforce-
 “ ments sent to the Malabar coast; — that the
 “ Bengal Government have been under the ne-
 “ cessity of supporting on their confines the army
 “ of a power, confederated, however involuntarily,
 “ against them; that they have been obliged to sue
 “ for the mediation of the same power, (the *Rajah*
 “ of *Berar*) have submitted to a refusal, and pur-
 “ chased at least an uncertain, because apparently
 “ an unauthorized treaty, on most extravagant and
 “ dishonourable conditions, with his son, *Rajah Chim-*
 “ *najee*; and finally, that, being burthened with
 “ the expences of a variety of distant expeditions,
 “ while their allies are in distress, and their tribu-
 “ taries under oppression, there is also an alarming
 “ deficiency in their own resources of revenue and
 “ commerce, by the accumulation of their debt,
 “ and the reduction of their investment.”
 40. “ That the attempt made by the Govern-
 “ ment General in the month of January, 1781,
 “ to form an engagement of alliance, offensive and
 “ defensive, with the Dutch East-India Company,
 “ by the means, and upon the terms stated in the
 “ proceedings

“proceedings of their Council, was *unwarranted,*
impolitic, extravagant, and unjust.”

42. “That the Government of Bengal had been
 “previously in possession of a letter from the Duan
 “of the Rajah of Berar, containing overtures for
 “mediation for peace and alliance with the *Peshwa*;
 “and that this material information was wholly
 “suppressed by them in their dispatches to the
 “Court of Directors, but a copy of it was sent
 “by the same conveyance *to the private agent of*
 “*Mr. Hastings*; and that, in thus neglecting to
 “make immediate communication to the Court of
 “Directors of such important intelligence, the Go-
 “vernment General appear to have failed in an
 “essential part of their duty.”

Resolved, “That Warren Hastings, Esq. Go-
 “vernor General in Bengal, and William Hornby,
 “Esq. President of the Council at Bombay, have
 “sing, in sundry instances, acted in a manner ve-
 “pugnant to the honour and policy of this nation, and
 “thereby brought great calamities on India, and enor-
 “mous expences on the East-India Company, it is the
 “duty of the Directors of the said Company to
 “pursue all legal and effectual means for the re-
 “moval of the said Governor General and Presi-
 “dent from their said offices, and to recall them to
 “Great Britain.”

This, Sir, I conceive, is not the language of a
 man very much undecided in his opinion, or who
 hesitates between the extremes of censure and ap-
 probation.

probation. If it be, I should be glad to know, in what terms the learned gentleman would express himself, when he seriously intended to condemn. I can truly assure him that I am not acquainted with any man, so hostile to Mr. Hastings, as not to be contented with this description of his conduct. So peremptory and decided is the condemnation expressed in these Resolutions, that several of my friends in India concluded they had been drawn up by *me*. Knowing nothing of the state of men and things in this country, they drew their conclusion from the knowledge they had of my opinions, and from that very character of decision, which is stamped on the face of the Resolutions, and which the learned gentleman thinks it prudent to disclaim. The fondness and applause, with which he has lately spoken of Mr. Hastings, have compleatly reconciled him to that gentleman's friends. All parties now have been satisfied in succession; and in this sense, I confess the learned gentleman has been impartial. His censure and applause are distributed with an equal hand, and so the account is balanced.

I told my Indian friends, in return to their letters, that I indeed had no concern in the matter; but that the business was happily undertaken by a man of great industry, of eminent ability, and unexampled perseverance, who, I was sure, would carry it through. Of his industry and ability, my opinion is the same; — but I am forced to acknowledge, that perseverance, such as his, is not without example.

example. — Other men are obliged to employ their talents in one line, and direct their efforts to one object; and, even with this limitation, it is well if they succeed. — The learned gentleman's abilities are not so narrowly confined. He carries the application of them to every extreme, and equally succeeds in exerting them in every direction.

APPEN. In the course of the debate on the 18th of July, it was intimated by a learned gentleman, in defence of the new Judiciary, that the erection of some new tribunals was necessary, for that there would be found unequal to the task of trying misdemeanours committed in India. In support of this position, he contended that the trials of offences within the purview of this bill would probably be of great length; that many might last more than a week; and that some might last even more than a month. He then proceeded to observe, that common lawyers were not fit to have such causes brought before them. It is scarcely possible that trials should be spun out to such a length, as he seemed to apprehend, even in this new Court, though in some respects it seems calculated for the purpose of delay. When any testimony is to be brought from India, a mandamus must issue from the King's Bench, and the depositions

APPENDIX.

No. I.

IN the course of the debate on the 16th of July, it was insisted by a learned gentleman, in defence of the new Judicature, that the erection of some new tribunal was necessary, for that Juries would be found unequal to the task of trying misdemeanors committed in India. In support of this position, he contended that the trials of offences within the purview of this bill would probably be of great length; that many might last more than a week; and that some might last even more than a month. He then proceeded to observe, that common Jurymen were not *fit* to have such causes brought before them. With regard to the probable length of the trials, it is scarcely possible that trials should be spun out to such a length, as he seemed to apprehend, even in this new Court, though in some respects it seems calculated for the purposes of delay. When any testimony is to be brought from India, a mandamus must issue from the King's Bench, and the depositions,

positions, taken by virtue of it, must be transmitted to England, before even the commission can issue from the Court of Chancery for holding the Court. All the testimony, that is to come from abroad, must be collected, even before the Court is in existence. What reason then is there to fear that, when the foreign evidence is to be thus prepared, trials would in general be of long continuance? If they should, it would be owing, not to difficulties in the procuring or examination of evidence, but to the power given to the Commissioners to adjourn from time to time, as they shall think fit; a power which would indeed, in all probability, be productive of the greatest delays in the administration of justice. But it may be asked, why a Jury is not as competent to try a misdemeanor committed in India, as one committed in England; and why a greater time should be necessary for the trial of the former than of the latter? The affirmative rests on an assertion, which, standing without argument, need only be denied. No man can be tried, even under the provisions of this bill, on an accumulated or general charge. The information or indictment must be for some specific offence or offences, to which the party is to plead, and upon which issue must be joined. If there be any testimony in India, it is to be transmitted under a mandamus to England. After all this preparation then, (a preparation which is prescribed by the bill) a misdemeanor committed in India may be tried by a Jury with as little difficulty, and in as little time, as one committed in

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England.

England. The learned gentleman's doctrine is of the most dangerous tendency : it leads to the abolition of trial by Jury. All the arguments, which have been used to shew the inconvenience and impropriety of this mode of trial in cases of offences committed abroad, might with equal force be urged against the propriety of it in cases of offences committed in England ; and very probably we shall soon have them introduced for that purpose.

Let it be admitted, for the sake of argument, that the investigation of Indian misdemeanors will probably take up a long time, and that common Juries are not *fit* to have such causes brought before them ; — still it does not follow that there is any necessity for abolishing trial by Jury. All Indian misdemeanors might be tried by special Juries, and this would obviate the fastidious objection, on which so much stress has been laid. Special Juries are not “ chosen out of the mass of mankind,” but out of the principal freeholders of the county. Men as little subject to bias, “ as little likely to go into “ common ale-houses, and enter into porter-club “ conversations upon the evidence before them,” and as little liable to be misled, as the members of either House of Parliament.

As for the length of the trials, let the investigation be ever so long, a Jury is competent to it. With deference to learned authority, there is no reason to admit that “ his going into his box, and “ remaining there locked up till he has given his “ verdict, is an essential characteristic of a Jury-
“ man.

"man." — It is essential that, after the Jury leave the bar, they shall not speak with the parties or their agents; and that they shall receive no fresh evidence: and it is common, in order to prevent intemperance, or causeless delay, to keep them without meat, drink, fire, or candle; but I affirm that this is not essential: the law says, that, by permission of the Judge, they may be allowed fire, candle, and refreshments. That permission would always be given, when the length and nature of the testimony might render much deliberation necessary, and thus the Jury would have it in their power, without any material inconvenience to themselves, to give full consideration to every part of the business before them.

No. II.

Minute of Richard Barwell, Esq. recorded in Consultation of 7th of November, 1774, and referred to in Page 27.

"I entirely approve of the Honourable the President's conduct in the receipt of complimentary nuzzers.

"The prejudices of the natives of Hindostan, bigoted to their ancient customs, make it absolutely impossible to avoid deviating in this particular from the words of the Act of Parliament!

"The spirit of the act is not, however, by this

“ seeming deviation, departed from, but regarded
 “ with an attention, *which shews the most scrupulous*
 “ *respect to the restrictions of the Legislature!* Nuz-
 “ zers are not made to the man, but to the station
 “ he fills, and are very different in their nature
 “ from *gratuitous rewards*, or the gifts, denomi-
 “ nated presents; I therefore cannot but equally
 “ honour the principle, while I admire the justness
 “ of the motive, on which official nuzzers, or
 “ compliments are *accepted* by the Governor Gene-
 “ ral. I see their *acceptance* in a light of the
 “ greatest propriety, perfectly consistent with the
 “ ideas of the Company, and regardful of what
 “ they have invariably recommended, attention to
 “ the particular prejudices, manners, and disposi-
 “ tions of the natives!

“ The Governor General has thought proper to
 “ submit the nuzzers, made to *his* station, to the
 “ Court of Directors, to be appropriated agree-
 “ ably to their pleasure. Small as the object is to
 “ the Company and to the nation, it gives dignity
 “ to *his* character as guardian of the public inte-
 “ rests, and obviates all misrepresentation of the
 “ principle and the motive, which has induced
 “ him to a compliance with the rooted prejudices
 “ and manners of the Asiatics. *My* experience,
 “ from a long residence in this country, convinces
 “ me of the *real necessity* there is of respecting
 “ usages in *immaterial points*, and which, disre-
 “ garded, would be followed by impressions re-
 “ sulting from a conduct repugnant to Asiatic
 “ notions

“ notions of propriety and deference. I might
 “ here make a tender to the Public of the trivial
 “ nuzzers, to the acceptance of which my station
 “ has *impelled* me; but what is proper in the Go-
 “ vernor General, would in me, I apprehend, ap-
 “ pear *rather in the light of a consequential insignifi-*
 “ *cant display of rigidity in excess!!* The amount
 “ of my complimentary nuzzers of a gold mohur,
 “ and five rupees, from the period of my arrival at
 “ the Presidency, exceeds not the sum of two hun-
 “ dred and fifty rupees, exclusive of a compliment
 “ from the Nabob of Arcot of a few pieces of
 “ cloth, the produce of his country, and two
 “ shauls, a compliment more than returned by
 “ myself in the manufactures of Bengal, to the
 “ amount of three thousand Sicca rupees.

(Signed)

“ RICHARD BARWELL.”

No. III.

*Extract of the General Instructions, given by the Court
 of Directors to the Governor General and Council of
 Fort William, dated the 29th of March, 1774, and
 confirmed by a General Court of Proprietors.*

35. “ WE direct, that you immediately cause
 “ the strictest inquiry to be made into all op-
 “ pressions, which may have been committed, ei-
 “ ther against the natives or Europeans, and into
 “ all

“ all abuses that may have prevailed in the collec-
 “ tion of the revenues, or any part of the civil go-
 “ vernment of the Presidency ; and that you com-
 “ municate to us all information, which you may
 “ be able to obtain relative thereto, or to any diffi-
 “ cation or embezzlement of the Company’s mo-
 “ ney.”

*Extract of a General Letter from the Court of Direc-
 tors to the Governor General and Council, dated the
 5th of April, 1776.*

Par. 27. “ HAVING investigated the charges
 “ exhibited against some of the members of our
 “ late Administration, we have come to the follow-
 “ ing resolutions :

Resolved, “ That it appears that the conduct of
 “ the late President* and Council of Fort William
 “ in Bengal, in suffering *Cantoo-Baboo*, the present
 “ Governor General’s Banyan, to hold farms in dif-
 “ ferent Purgunnahs to a large amount, or to be
 “ security for such farms, contrary to the tenor and
 “ spirit of the seventeenth regulation of the Com-
 “ mittee of Revenue at Fort William, of the 14th
 “ of May, 1772, and afterwards relinquishing that
 “ security without satisfaction made to the Com-
 “ pany, was highly improper, and has been at-
 “ tended with considerable loss to the Company.

* Mr. Hastings.

Resolved,

Resolved, " That it appears that a considerable
 " sum of money has been given by one of the
 " Company's tenants, for holding the salt farms of
 " Selimabad and Duccann-Savagepore, in the dis-
 " trict of Dacca, over and above the engagement
 " for those farms to the Company, contrary to the
 " letter and spirit of the eleventh regulation of the
 " Committee of Revenue, of the 14th of May,
 " 1772 ; and that Mr. *Barwell* has acknowledged
 " having charged the said tenant, for his own use,
 " and the other gentlemen of the Factory, with
 " the amount of 125,500 rupees, for permitting
 " him to hold the said farms."

28. " Since passing the above resolutions, the
 " Northumberland's Purser is arrived with your
 " advices ; and our concern is much increased on
 " finding that improper influence, and interference
 " of our servants in the revenue branch, has been
 " much more general than we had been led to hope
 " was the case ; and that in the immediate views of
 " private gain, the Company's interest has been
 " greatly neglected."

30. " The powers and instructions vested in, and
 " given to General Clavering and the other gentle-
 " men, were such as fully authorised them in every
 " inquiry that seems to have been their object ;
 " and we highly commend the indefatigable assiduity
 " that evidently appears in their laborious researches,
 " and their zeal for the interest of the Company and the
 " welfare of individuals, as well natives as Euro-
 " peans."

Extract

Extract of a General Letter from the Court of Directors to the Governor General and Council, dated the 28th of November, 1777.

39. "WE find that the farm of *Sylhet* was
 " granted by the Committee of Circuit; that the
 " Company's advances to the farmers of *Sylhet*, of
 " 33,000 rupees for elephants, *was received by one*
 " *of the members of that Committee.* It has, how-
 " ever, since appeared, that the other ostensible
 " farmers, or persons named in the Committee's
 " settlement, NEVER EXISTED; and that the
 " Company's Resident at *Sylhet*, was the real far-
 " mer, *under fictitious names.*"

No. IV.

The thirty-third clause of the original bill, which Mr. Francis desired might be translated into common sense, is omitted in the amended bill. No skill in language could translate it. — Vide page 13.

No. V.

The eighteenth resolution of the Committee of Secrecy, of which Mr. Dundas, then Lord Advocate of Scotland, was Chairman, is guilty of an anachronism, in which the assertion of a false fact

is involved. It asserts that, "in February, 1778, " the resolution of the majority of the Supreme " Council, *by the death of Colonel Monson*, was now " decided by the casting voice of the Governor " General." — It was not the death of Colonel Monson, which gave Mr. Hastings the casting voice in February, 1778. He died about the end of September, 1776. It was the death of Sir John Clavering, in August, 1777, which gave Mr. Hastings a majority at the period in question. If the General had been alive in February, 1778, he, Mr. Francis, and Mr. Wheler, would have formed a majority against Mr. Hastings and Mr. Barwell, and prevented the Maratta war. The resolution, by *supposing* General Clavering to be alive, transfers to *him*, because he is dead, the merit of the resistance, made in Council to that measure, and keeps the efforts of Mr. Francis to prevent a rupture with the Marattas, compleatly out of sight.

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